

12-10-07

#29

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**IN RE APPLICANT: Boyce D. Burts, Jr. § EXAMINER: L. Cross**

**FILED: April 22, 1999**

§

§

**ART UNIT NO.: 1721**

§

**SERIAL NO.: 09/296,217**

§

§

**TITLE: *Conformance Improvement  
Additive, Conformance Treatment  
Fluid Made Therefrom, Method  
of Improving Conformance in a  
Subterranean Formation***

§

**ATTY DOCKET NO. 23267/15DC1**

§

§

§

§

**STATUS INQUIRY**

**OR**

**IN THE ALTERNATIVE  
A PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37  
CFR 1.181(a)**

The Assistant Commissioner of Patents  
Washington, DC 20231

Dear Sir:

This is a Status Inquiry as to the current status of this patent application. In the alternative, it is a Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181(a).

## **REMARKS**

**The facts of this application are convoluted, and applicant thanks the Examiner in advance for the patience required to dig through these facts.**

This application is not viewable on PAIR, so applicant requests a current status of the application, and in the alternative, it is a Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181(a).

### **Quick Summary**

In response to the 10/07/03 Notice, applicant

- (1) timely submitted a response to the notice;
- (2) submitted it a second time upon telephone inquiry by the Examiner and issuance of a Notice of Abandonment; and
- (3) submitted it a third time upon telephone inquiry by the Examiner.

In short, timely response was made, and copies were twice provided in response to the Notice of Abandonment and inquiries by the Examiner.

### Timeline of Events

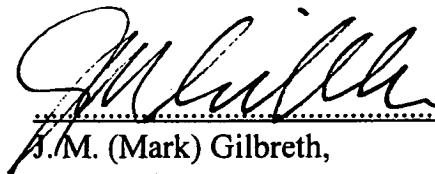
- 10/07/03      Notice of Non-Compliance With One Month Period for Response.
- 11/07/03      Timely Response was facsimile filed (see Exhibit A, Response; Exhibit B, Attorneys Fax generated confirmation; and Exhibit C, USPTO Auto Reply Receipt).
- 07/14/04      Examiner Cross kindly telephoned attorney Gilbreth and said a Response was not received and that the application appeared to be abandoned.
- 07/16/04      Notice of Abandonment.
- 07/19/04      A copy of the 11/07/03 Response was facsimile filed, along with proof of facsimile filing (See Exhibit D, Response to 7/14 phone call; Exhibit E, fax generated confirmation; Exhibit F, USPTO auto reply).
- 01/04/05      Examiner Cross again informs attorney Gilbreth that the Response has not been received.
- 01/06/05      Copy of the 11/07/03 Response, Copy of the 07/09/04 Response, along with proof of facsimile filing for both responses, were filed (See Exhibit G, Fax Cover Sheet listing Exhibits; Exhibit H, generated fax confirmation).

In view of the above arguments, prompt allowance of all pending claims is respectfully requested.

If it would be of assistance in resolving any issues in this application, the Examiner is kindly invited to contact applicants' attorney Mark Gilbreth at 713/227-1200.

Respectfully submitted,

Date: December 10, 2007



J.M. (Mark) Gilbreth,  
Registration No. 33,388  
Attorney for Applicants

Gilbreth & Associates, P.C.  
PO Box 61305  
Houston, Texas 77208-1305  
713/227-1200

**Exhibit B**  
**Attorneys Fax generated confirmation 11/07/03**

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO 0607  
CONNECTION TEL 17038729306  
SUBADDRESS  
CONNECTION ID  
ST. TIME 11/07 17:35  
USAGE T 02'18  
PGS. 5  
RESULT OK

**FACSIMILE  
TRANSMITTAL**

**GILBRETH & ASSOCIATES, P.C.**

6750 W. Loop South, Suite 920

Bellaire, Texas 77401

Telephone (713) 667-1200

Facsimile (713) 667-4424

**PLEASE DELIVER TO:****Examiner LaToya Cross****Phone 703-305-7360****ART UNIT 1743**

**COMPANY:** PATENT & TRADEMARK OFFICE  
WASHINGTON, DC 20231

**FAX NUMBER:** 703-872-9306

**TOTAL PAGES** 5 Pages (Including Cover Sheet)

**FROM:** J.M. (Mark) Gilbreth, Reg No.: 33,388

**RE:** SERIAL NO. 09/296,217

**RESPONSE TO NOTIFICATION OF NON-COMPLIANCE WITH  
THE REQUIREMENTS OF 37 CFR 1.192(C)**

**CERTIFICATE OF FACSIMILE TRANSMISSION**

**Exhibit C**  
**USPTO Auto Reply Receipt 11/07/03**

FILE

## Auto-Reply Facsimile Transmission



UNITED STATES  
PATENT AND  
TRADEMARK OFFICE

TO:

Fax Sender at 7136674424

Fax Information

Date Received:

Total Pages:

11/7/03 6:34:24 PM [Eastern Standard Time]  
5 (including cover page)

**ADVISORY:** This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.

Received  
Cover  
Page  
=====>

11/07/03 FRI 17:38 FAX 7136674424

GILBRETH & ASSOC

0001

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TRANSMITTAL

**GILBRETH & ASSOCIATES, P.C.**  
6750 W. Loop South, Suite 820  
Bellaire, Texas 77401  
Telephone (713) 667-1200  
Facsimile (713) 667-4424

PLEASE DELIVER TO:

**Examiner LaToya Cross**

**Phone 703-305-7360**  
**ART UNIT 1743**

COMPANY: PATENT & TRADEMARK OFFICE  
WASHINGTON, DC 20231

FAX NUMBER: 703-872-9306

TOTAL PAGES: 5 Pages (including Cover Sheet)

FROM: J.M. (Mark) Gilbreth, Reg No.: 33,388

RE: **SERIAL NO. 09/296,217**

**RESPONSE TO NOTIFICATION OF NON-COMPLIANCE WITH  
THE REQUIREMENTS OF 37 CFR 1.192(C)**

### CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to fax number (703) 872-9306, Attn: Examiner LaToya Cross, Commissioner for Patents, Alexandria, VA 22313-1450, on November 7, 2003. Faxed herewith is the Response to the Notification of Non-Compliance with the Requirements of 37 CFR 1.192(c) for the above referenced Application.

J.M. (Mark) Gilbreth, Reg No. 33,388  
Attorney for Applicant

G&A DocId: No. 2316715DC1

Received from: 7136674424 - at 11/07/03 6:34:24 PM [Eastern Standard Time]



**Exhibit D**  
**Response to 7/14 phone call as filed 07/19/04**

**FACSIMILE  
TRANSMITTAL**

**GILBRETH & ASSOCIATES, P.C.**

6750 W. Loop South, Suite 920

Bellaire, Texas 77401

Telephone (713) 667-1200

Facsimile (713) 667-4424

**PLEASE DELIVER TO:**

**Examiner LaToya Cross**

**Phone 703-305-7360**

**ART UNIT 1743**

**COMPANY: PATENT & TRADEMARK OFFICE  
WASHINGTON, DC 20231**

**FAX NUMBER: 703-872-9306**

**TOTAL PAGES 10 Pages (Including Cover Sheet)**

**FROM: J.M. (Mark) Gilbreth, Reg No.: 33,388**

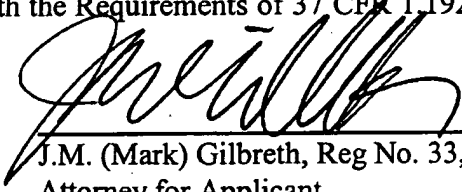
**RE: SERIAL NO. 09/296,217**

***RESPONSE TO 7/14 EXAMINER PHONE CALL***

**AND COPY OF PREVIOUSLY FILED *RESPONSE TO NOTIFICATION  
OF NON-COMPLIANCE WITH THE REQUIREMENTS OF 37 CFR 1.192(C)***

**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this correspondence is being facsimile transmitted to **fax number (703) 872-9306**, Attn: **Examiner LaToya Cross**, Commissioner for Patents, Alexandria, VA 22313-1450, on **July 19, 2004**. Faxed herewith is the Response to Phone Call and copy of previously filed Response to Notification of Non-Compliance with the Requirements of 37 CFR 1.192(c) for the above referenced Application.

  
J.M. (Mark) Gilbreth, Reg No. 33,388  
Attorney for Applicant

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>IN RE APPLICANT: Boyce D. Burts, Jr.</b>	§	<b>EXAMINER: L. Cross</b>
	§	
<b>FILED: April 22, 1999</b>	§	<b>ART UNIT NO.: 1743</b>
	§	
<b>SERIAL NO.: 09/296,217</b>	§	
	§	
<b>TITLE: <i>Conformance Improvement</i></b>	§	<b>ATTY DOCKET NO. 23267/15DC1</b>
<b><i>Additive, Conformance Treatment</i></b>	§	
<b><i>Fluid Made Therefrom, Method</i></b>	§	
<b><i>of Improving Conformance in a</i></b>	§	
<b><i>Subterranean Formation</i></b>	§	

**RESPONSE TO 7/14/04 EXAMINER PHONE CALL**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This is responsive to a telephone call from Examiner LaToya Cross on July 14, 2004.

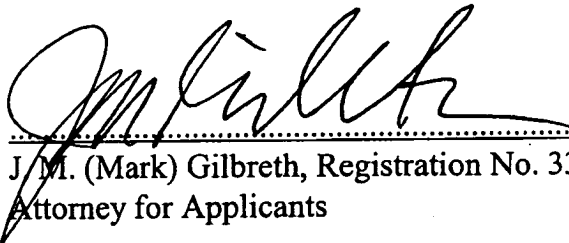
Examiner Cross called to notify applicant's attorney Mark Gilbreth that the application appeared to have been abandoned for applicant's failure to respond to a 10/7/2003 Notification, Examiner Cross could find no response in the file.

**It is respectfully noted that applicant fax filed a timely response 11/7/2003. A copy of that response is faxed herewith, along with the "Auto-Reply Facsimile Transmission" from the USPTO.**

If it would be of assistance in resolving any issues in this application, the Examiner is kindly invited to contact applicants' attorney Mark Gilbreth at (713) 667-1200.

Respectfully submitted,

7/19/2004  
Date: ~~November 7, 2003~~

  
J. M. (Mark) Gilbreth, Registration No. 33,388  
Attorney for Applicants

Gilbreth & Associates, P.C.  
P.O. Box 2428  
Bellaire, TX 77402-2428  
T (713) 667-1200  
F (713) 667-4424

**Exhibit E**  
**fax generated confirmation 7/19/04**

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO	0765
CONNECTION TEL	17038729306
SUBADDRESS	
CONNECTION ID	
ST. TIME	07/19 21:31
USAGE T	03'19
PGS.	10
RESULT	OK

**FACSIMILE  
TRANSMITTAL**

**GILBRETH & ASSOCIATES, P.C.**

6750 W. Loop South, Suite 920

Bellaire, Texas 77401

Telephone (713) 667-1200

Facsimile (713) 667-4424

**PLEASE DELIVER TO:****Examiner LaToya Cross****Phone 703-305-7360****ART UNIT 1743**

**COMPANY:** PATENT & TRADEMARK OFFICE  
WASHINGTON, DC 20231

**FAX NUMBER:** 703-872-9306

**TOTAL PAGES** 10 Pages (Including Cover Sheet)

**FROM:** J.M. (Mark) Gilbreth, Reg No.: 33,388

**RE:** **SERIAL NO. 09/296,217**

***RESPONSE TO 7/14 EXAMINER PHONE CALL***

**AND COPY OF PREVIOUSLY FILED *RESPONSE TO NOTIFICATION  
OF NON-COMPLIANCE WITH THE REQUIREMENTS OF 37 CFR 1.192(C)***

**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this communication is being facsimile transmitted to the following:

**Exhibit F**  
**USPTO auto reply 07/19/04**

## Auto-Reply Facsimile Transmission



TO:

Fax Sender at 7136674424

Fax Information

Date Received:

7/19/2004 11:29:48 PM [Eastern Daylight Time]

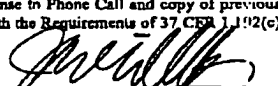
Total Pages:

10 (including cover page)

**ADVISORY:** This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.

Received  
Cover  
Page

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07/19/04 MON 21:32 FAX 7136674424		GILBRETH & ASSOC	0001
<b>FACSIMILE TRANSMITTAL</b>		<b>GILBRETH &amp; ASSOCIATES, P.C.</b> 6750 W. Loop South, Suite 920 Bellaire, Texas 77401 Telephone (713) 667-1200 Facsimile (713) 667-4424	
<b>PLEASE DELIVER TO:</b>			
<b><u>Examiner LaToya Cross</u></b> <b><u>Phone 703-305-7360</u></b> <b><u>ART UNIT 1743</u></b>			
<b>COMPANY:</b>	<b>PATENT &amp; TRADEMARK OFFICE WASHINGTON, DC 20231</b>		
<b>FAX NUMBER:</b>	<b>703-872-9306</b>		
<b>TOTAL PAGES</b>	<b><u>10</u> Pages (Including Cover Sheet)</b>		
<b>FROM:</b>	<b>J.M. (Mark) Gilbreth, Reg No.: 33,388</b>		
<b>RE:</b>	<b><u>SERIAL NO. 09/296,217</u></b>		
<b>RESPONSE TO 7/14 EXAMINER PHONE CALL</b>			
<b>AND COPY OF PREVIOUSLY FILED RESPONSE TO NOTIFICATION OF NON-COMPLIANCE WITH THE REQUIREMENTS OF 37 CFR 1.192(C)</b>			
<b>CERTIFICATE OF FACSIMILE TRANSMISSION</b>			
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 J.M. (Mark) Gilbreth, Reg No. 33,388 Attorney for Applicant			
G&A Doclet No. 23267/15DC1			
PAGE 108 - REVD AT 7/19/2004 11:29:48 PM Eastern Daylight Time - FAX-UPTR-27107-10 - 0719.27107-10 - 667.112974424 - DURATION 0000:16:33:48			



**Exhibit G**  
**Fax Cover Sheet filed 01/06/05 listing Exhibits**

**FACSIMILE  
TRANSMITTAL**

**GILBRETH & ASSOCIATES, P.C.**

6750 West Loop South, Suite 920

Bellaire, Texas 77401

Telephone No. 713/227-1200

Telecopier No. 713/667-4424

**To the United States Patent and Trademark Office  
PLEASE DELIVER TO:**

**Examiner LaToya Cross**

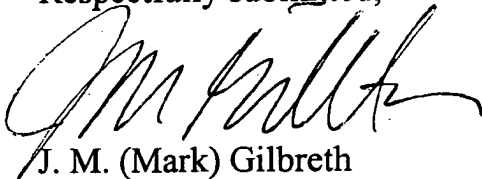
**Phone: 571 272 1256**

**FAX NUMBER:** 571 273 1256  
**TOTAL PAGES** -19- **Pages (Including Cover Sheet)**  
**FROM:** J. M. (Mark) Gilbreth  
**RE:** PAT APP SERIAL NO. 09/296,217

Following up on the 1/4/5 Telephonic Interview between Examiner Cross and applicant's attorney Mark Gilbreth, faxed herewith, please find:

Exhibit 1, Response and Fax Cover Sheet, Fax Filed 11/7/2003;  
Exhibit 2, Fax Confirmation Generated by Attorney's Fax;  
Exhibit 3, Fax Confirmation from USPTO;  
Exhibit 4, Response to 7/14/04 Phone Call (resubmission of 11/7/03 Response);  
Exhibit 5, Fax Confirmation Generated by Attorney's Fax;  
Exhibit 6, Fax Confirmation from USPTO;

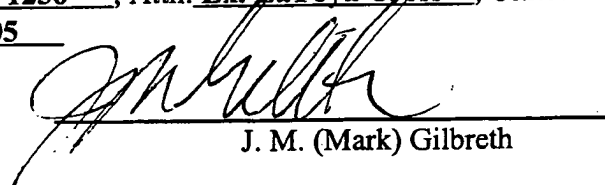
Respectfully submitted,



J. M. (Mark) Gilbreth  
Reg. No. 33,388

**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this correspondence and attachments referred to therein are being facsimile transmitted to fax number 571 273 1256, Attn: Ex. LaToya Cross, United States Patent and Trademark Office, on 1/6/05



J. M. (Mark) Gilbreth

**Exhibit H**  
**generated fax confirmation 01/06/05**

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO	0830
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SUBADDRESS	
CONNECTION ID	
ST. TIME	01/06 09:02
USAGE T	05'32
PGS.	19
RESULT	OK

**FACSIMILE  
TRANSMITTAL**

**GILBRETH & ASSOCIATES, P.C.**

6750 West Loop South, Suite 920

Bellaire, Texas 77401

Telephone No. 713/227-1200

Telecopier No. 713/667-4424

**To the United States Patent and Trademark Office  
PLEASE DELIVER TO:**

**Examiner LaToya Cross****Phone: 571 272 1256**

**FAX NUMBER:** 571 273 1256  
**TOTAL PAGES** -19- **Pages (Including Cover Sheet)**  
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